IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1385 OF 2004

IN

SUIT NO.1465 OF 1986

Mr.Rustom Boman Irani ... Plaintiff.

vs.

The Municipal Corpn. Of Gr.Bombay
and 9 others. ... Defendants.

Mr.D.V.Gangal with Mr.Y.R.Shah, for Plaintiff.

Mr.K.N.Gaikwad, for Defendant no.1.

Mr.Milind More, A.G.P. for Defendant nos.2 to 5.

Mr.N.H.Seervai with Mr.Z.Andhyarunina i/b. Maneksha & Sethana for Defendant no.10.

CORAM: D.K.DESHMUKH,J.

DATED: 18th March, 2005.

P.C.:-

1. At the outset, the learned counsel for plaintiff who has taken out this notice of motion states that the plaintiff does not press the reliefs claimed by prayer clause (a), (c) and (d) presently, with liberty to apply for those reliefs if necessary in future.

2. So far as prayer clause (b) is concerned, I have heard learned Counsel for both the sides. I have perused the report of the Commissioner dated 29th September,2004. As per that report, it appears that the access road is in existence and the plaintiff is not obstructing that access road.

3. The learned counsel for defendant no.10 states that so far as the access road mentioned in the Commissioner's Report is concerned, the defendant no.10 has never obstructed that access road nor will defendant no.10 ever obstruct that access road. The statement is accepted. In view of the report of the commissioner and the statement made by the learned Counsel for defendant no.10, no order in terms of prayer clause (b) is necessary. The notice of motion is disposed of.

18.3.2005 ---